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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,200	05/29/2001	Robert H. Scher	31083.05US3	5897
34018 7590 07/31/2007 GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			EXAMINER CUFF, MICHAEL A	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/867,200	<b>Applicant(s)</b> SCHEER, ROBERT H.	
	<b>Examiner</b> Michael Cuff	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caveney in view of Tsukishima et al.

Caveney et al. shows, figure 12, (from column 3) a computer system and method for controlling the number of units of each of a plurality of different parts in an inventory. In a preferred embodiment, the computer system comprises a memory which stores a part data table for each part, an input device which receives a selected inventory investment constraint, a processor which retrieves the part data table for each part and determines a minimum unit replenishment quantity (part of the reorder point equation, replenishment method) and a safety unit quantity (base stock level) for each part, and an output device which outputs the minimum unit replenishment quantity and the safety unit quantity for each part. The part data table (the curves in figure 12 are derived from the part data table, the common slope or critical ratio is determined by using these curves and thus also using the forecast of demand) for each part comprises the number of units of the part in the inventory, a forecast unit demand for the part, the cost of the part, a historical average ratio of units per order for the part, and an average number of units of the part expected to be in the inventory for each of a plurality of expected part

service levels for the part. In order to determine the minimum unit replenishment quantity and the safety unit quantity for each part, the processor determines an expected number of fillable-from-stock orders and a slope (using critical stocking ratio for each part service level of each part. Each expected number of fillable-from-stock orders for each part is the product of the corresponding expected part service level and the ratio of the forecast unit demand for the part to the historical average ratio of units per order for the part. Each slope for each part is the ratio of the change in the corresponding expected number of fillable-from-stock orders for the part to the change in the ratio of the corresponding average number of units of the part expected to be in the inventory to the historical average ratio of units per order for the part. The processor further determines a slope, which is common to each part and for which the sum of the expected part investments for each of the parts is equal to the selected inventory investment constraint. Still further, the processor determines the minimum unit replenishment quantity and the safety unit quantity for each part, which can effect the expected part service level for each part corresponding to the determined common slope.

Caveney fails to explicitly disclose the use of the inventory management system over a plurality of distribution points in the supply chain.

Tsukishima et al. teaches, column 7, lines 41-67 and figure 2, a part-based expansion arithmetic unit 34 designed to arithmetically determine inventory allotment (shares apportioned), lot arrangement, and lead time as parts of the MRP procedure in order to optimize the supply chain.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Caveney with inventory allotment method over a plurality of distribution points as taught by Tsukishima et al. in order to optimize the supply chain.

### ***Response to Arguments***

Applicant's arguments filed 10/13/06 have been fully considered but they are not persuasive.

Applicant asserts that the combination of the two references is not proper. The examiner does not agree. The proper *Graham v. John Deere* analysis has been detailed in the rejection. See *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734, 82 USPQ2d 1385, 1391 (2007) for more guidance.

Applicant asserts (page 4, line 3) that Tsukishima fails to teach "a plurality of distribution points within a supply chain." The examiner does not concur. Applicant's citation of Tsukishima (Column 1, lines 15-25), which is just background, describes "time points at which component parts of the article are required, and the numbers thereof". This teaches two distribution points. Point one is a point in inventory prior to the scheduled time at a place other than where it is required and point two is the number required at the place require by the MRP. This interpretation meets the recitation of "a plurality of distribution points within a supply chain."

Applicant asserts, page 4, lines 10-13, that neither prior art references teach the using a critical stocking ratio for an item to apportion a total quantity. The examiner does not concur. Applicant should review paragraphs 177 and 202-208 of their own

disclosure. The prior art "uses" a critical stocking ratio as much as applicant does in apportioning items.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Michael Cuff* 7/21/07

Michael Cuff  
July 21, 2007

**MICHAEL CUFF**  
**PRIMARY EXAMINER**